

STATE OF INDIANA )  
 ) SS:  
COUNTY OF ALLEN )

IN THE ALLEN SUPERIOR COURT  
CAUSE NO. \_\_\_\_\_

STATE OF INDIANA, )  
 )  
Plaintiff, )

v. )

WINIFRED J. POWELSON, also known as )  
JANE POWELSON, also known as )  
JANE STAUFFER, also known as )  
WINNIE MAY, )  
individually and doing business as )  
VICTORIAN MANOR CAVALIERS, )  
PRIMROSE MANOR CAVALIERS, )  
 )  
Defendant. )

02001-0468-FL-346 28

**MOTION FOR TEMPORARY RESTRAINING ORDER**  
**WITHOUT NOTICE AND PRELIMINARY INJUNCTION**

The State of Indiana, by Attorney General Steve Carter and Deputy Attorney General Terry Tolliver, respectfully moves the Court pursuant to Rule 65 of the Indiana Rules of Trial Procedure and Ind. Code § 24-5-0.5-4(c), to issue a Temporary Restraining Order, pending hearing on the Plaintiff's Motion for Preliminary Injunction, restraining the Defendant, Winifred J. Powelson, from offering for sale, taking deposits on, or otherwise engaging in the sale of any puppies as AKC puppies, and in support of its motion states:

1. On or about August 23, 2004, the Plaintiff filed its Verified Complaint For Injunction, Restitution, Costs, and Civil Penalties in this action, alleging that the Defendant engaged in deceptive acts by knowingly and intentionally misrepresenting that the subject of a consumer transaction had sponsorship, approval, characteristics, accessories, uses, or benefits it did not have, misrepresenting the subject of a consumer

transaction was of a particular standard, quality, grade, style, or model that is was not, misrepresenting that the Defendant had sponsorship, approval, or affiliation in a consumer transaction that she did not have, misrepresenting that the consumer transaction involved a warranty, a disclaimer of warranties, or other rights, remedies, or obligations, and misrepresenting the items ordered by consumers would be delivered within a reasonable period of time, in violation of Indiana's Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-1, *et seq.* The allegations of the Plaintiff's Complaint are incorporated herein and made a part of this motion by reference.

2. The Office of the Attorney General has received over ten (10) complaints from consumers alleging that the Defendant has obtained funds from consumers for the purchase of AKC puppies and the Defendant failed to timely deliver the AKC registration papers, the puppies as represented, or in some cases, failed to deliver the puppies at all. The Defendant has also failed to honor the health guarantees on the puppies and failed to provide refunds to consumers.

3. Pursuant to the Declaration of the American Kennel Club ("AKC"), attached and incorporated by reference as Exhibit "A", the Defendant has been placed on referral status with the American Kennel Club and is therefore unable to register litters and/or puppies, therefore making her unable to sell AKC puppies.

4. Based upon an initial calculation of the probable damages stemming from these complaints, it appears that the Defendant is indebted to consumers and the State of Indiana in excess of Twenty-Seven Thousand Dollars (\$27,000.00), as a result of her failure to deliver the puppies and/or registration papers, her failure to honor the health guarantees, and her other misrepresentations.

5. Pursuant to the declaration of Kerria Hardwick, an investigator for the Office of the Attorney General, attached and incorporated by reference as Exhibit "B", the Defendant is currently and continues to advertise and attempts to sell the puppies as AKC.

6. A bank account with the Professional Federal Credit Union (account number 147168348), the property located at 302 Summit Street, Monroeville, Indiana, 46773, and any inventory contained therein, are likely the only assets owned by the Defendant.

7. Granting injunctive relief against the Defendant will serve the public interest. If the Defendant and her agents are not restrained from offering for sale, taking deposits on, or otherwise engaging in the sale of puppies as AKC, as well as misrepresenting the health guarantees on the puppies, the Plaintiff believes additional consumers will be irreparably harmed.

8. The threatened injury to consumers if an injunction is denied outweighs the threatened harm to the Defendant if the injunction is granted, as a temporary restraining order is necessary and merely preserves the status quo until the issues raised by the Plaintiff's Motion for Preliminary Injunction can be heard and considered by the Court.


9. The Plaintiff has established a prima facie case that the Plaintiff is substantially likely to prevail on the merits of its Complaint in this action, and the Plaintiff does not have an adequate remedy at law to protect the interests of consumers regarding the matters raised in this motion.

10. The Plaintiff is a governmental organization and is not required to offer security pursuant to Rule 65(c) of the Indiana Rules of Trial Procedure.

WHEREFORE, the Plaintiff requests the Court issue an temporary restraining order without notice, restraining the Defendant, Winifred J. Powelson, and her employees, agents, and representatives, from offering for sale, taking deposits on, or otherwise engaging in the sale of puppies as AKC, pending hearing on the Plaintiff's Motion for Preliminary Injunction, and for all other just and proper relief.


Respectfully submitted,

STEVE CARTER  
Attorney General of Indiana  
Atty. No. 4150-64

By:   
Terry Tolliver  
Deputy Attorney General  
Atty. No. 22556-49

#### VERIFICATION

**I affirm, under the penalties, for perjury that the foregoing representations are true.**

  
Terry Tolliver  
Deputy Attorney General  
Atty. No. 22556-49

Office of Attorney General  
Indiana Government Center South  
302 W. Washington, 5th Floor  
Indianapolis, IN 46204  
Telephone: (317) 233-3300

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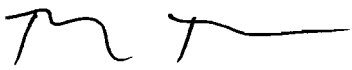
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Respectfully submitted,


STEVE CARTER  
Attorney General of Indiana  
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Terry Tolliver  
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